325.

SUPREME COURT OF THE UNITED STATES.

No. 57.

CLEMENT WOODWARD, PLAINTIFF IN ERROR,

VERSUS

JAMES BROWN, AND SARAH JANE, HIS WIFE, DEFENDANT IN ERROR.

ERROR TO THE CIRCUIT COURT U. S. FOR WASHINGTON, D. C.

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UNITED STATES OF AMERICA:

The President of the United States,

To the Judges of the Circuit Court of the District of Columbia, sitting for Washington County—greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Court before you, or some of you, between James Brown, and Sarah Jane Brown, his wife, on the demise of Richard Roe, plaintiff, and Clement Woodward, defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears. We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that under your seal distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of August next, in said Supreme Court to be then and there held; and that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right and according to the laws and the custom of the United States should be done.

Witness the honorable Roger B. Taney, Chief Justice of said Supreme Court.

Issued this 24th day of June, 1837.

[L. S.] W. BRENT,
Clk. Cir. Ct. Dist. Col. for C'nty of Wash'n.

DISTRICT of COLUMBIA, *sct.*

The United States of America,

To James Brown and Sarah Jane Brown, his wife—greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, on the first Monday of August next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the District of Columbia, in the county of Washington, wherein Clement Woodward is plaintiff in error, and you are defendants in error, to show cause, if any there be, why judgement rendered against the said Clement Woodward, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the honorable William Cranch, Chief Judge of the circuit court of the District of Columbia, this 24th day of June, 1837.

W. CRANCH.

Service acknowledged.

WM. L. BRENT, for Brown and Wife.

Know all men by these presents, that we, Clement Woodward, William W. Corcoran, and William S. Nicholls, are held and firmly bound unto James Brown and Sarah Jane Brown, his wife, on the demise of Richard Roe, in the full and just sum of five hundred dollars, current money, to be paid to the said James Brown and Sarah Jane Brown, his wife, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this 24th day of June, 1837.

Whereas, lately, at a circuit court of the District of Columbia, sitting for Washington county, in a suit pending in the said court, wherein the said *the said* James Brown and Sarah Jane, his wife, on the demise of Richard Roe, were plaintiffs, and the said Clement Woodward was defendant, judgement was rendered against the said defendant, and he having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgement in the aforesaid suit, and a citation directed to the said James Brown and Sarah Jane, his wife, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington on the Monday of next.

Now, the condition of the above obligation is such, that if the said Clement Woodward shall prosecute his said writ to effect, and answer all damages and costs if he fails to make his plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue.

CLEMT. WOODWARD. [SEAL.]
W. W. CORCORAN. [SEAL.]
W. S. NICHOLLS. [SEAL.]

Signed, sealed and delivered in the presence of
J. HELLEN.
J. CARIER, JR.

Approved:
W. CRANCH.

Copy—Test,

W. BRENT, *Clerk.*

STYLE OF COURT.

DISTRICT OF COLUMBIA, *ss.*

At a circuit court of the District of Columbia, begun and held in

and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-seventh day of the same month, in the year of our Lord one thousand eight hundred and thirty-seven, and of the independence of the United States of America the sixty-first.

Present: the honorable William Cranch, chief judge, Buckner Thruston and James S. Morsell, assistant judges, Alexander Hunter, Esq. marshal, William Brent, clerk.

In the record of proceedings of said court, amongst others, are the following, to wit:

PARTIES.

JAMES BROWN and SARAH JANE BROWN, his wife,
against
CLEMENT WOODWARD.

Be it remembered, that heretofore, to wit, on the eighteenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, Richard Roe, lessee of the said James Brown and Sarah Jane Brown, his wife, by Brent & Brent, Esquires, his attorney, declared in the circuit court here, against John Doe, in a plea of trespass in ejectment, with a notice thereto annexed, in manner and form following, to wit:

DECLARATION.

WASHINGTON COUNTY, *District of Columbia*, to wit:

John Doe, late of the county aforesaid, yeoman, was attached to answer unto Richard Roe, in a plea, wherefore, with force and arms, &c. at the county aforesaid, he entered into all that tract or parcel of ground known and called the eastern half of lot numbered two (2) in square number three hundred and forty-eight, (348) with the appurtenances thereon and thereto belonging, lying and situate on D street, between 10th and 11th streets in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, which Benjamin M. Belt demised to the said Richard for a term of years not yet expired, and ejected him, the said Richard, from his said lot and farm; and also, wherefore, with force and arms, &c. at the county aforesaid, he entered into one other east half of one other tract or parcel of ground, known and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square

feet, more or less, which John Knoblock, deceased, in his life time, demised to the said Richard for a term of years, which is not yet expired, and ejected him, the said Richard, from his said lot and farm; and also, with force and arms, &c. at the county aforesaid, he entered into another east half of one other parcel of ground, known and called as the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate upon D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, which Frederick Stinger demised to the said Richard, for a term of years, which is not yet expired, and ejected him, the said Richard, from his said lot and farm; and also, wherefore, with force and arms, &c. at the county aforesaid, he entered into one other east half of a certain parcel of ground, known and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, which Sarah Jane Stinger, whilst she was single, now Sarah Jane Brown, wife of James Brown, demised to the said Richard, for a term of years, not yet expired, and ejected him, the said Richard, from his said lot and farm; and also, wherefore, with force and arms, &c. at the county aforesaid, he entered into one other east half of a certain parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, which Peter Force demised to the said Richard, for a term of years, which is not yet expired, and ejected him, the said Richard, from his said lot and farm; and also, wherefore, with force and arms, &c. at the county aforesaid, he entered into one other east half of a certain tract or parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, which James Brown and Sarah Jane Brown, his wife, demised to the said Richard, for a term of years, which is not yet expired, and ejected him, the said Richard, from the said lot and farm, and other harms and wrongs to him, the said Richnrd, then and there did, to the great damage of him, the said Richard, and against the peace, government, and dignity of the United States, &c. and whereupon, the said Richard, by Brent & Brent, his attorneys, complains that the said Benjamin M.

Belt, on the *eighteenth day of December*, in the year of our Lord *one thousand eight hundred and twelve*, at the county aforesaid, had demised to the said Richard all the aforesaid parcel of ground known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, with the appurtenances thereunto belonging, lying and being on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold said premises, with the appurtenances, to him, the said Richard, and his assigns, from the day and year aforesaid, for and during, and until the full end and term of forty years from thence next ensuing, fully to be complete and ended; and also, that the said John Knoblock, deceased, in his life time, on the *nineteenth day of October*, in the year of our Lord *one thousand eight hundred and fifteen*, at the county aforesaid, had demised unto the said Richard one other parcel of ground, known as and called the *east half* of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances, lying and situate upon D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold the said premises, with the appurtenances, to him, the said Richard, and his assigns, from the day and year last aforesaid, for and during and unto the full end and term of thirty years from thence next ensuing, and fully to be complete and ended; and also, that the said Frederick Stinger, on the 13th day of October, in the year of our Lord one thousand eight hundred and eighteen, at the county aforesaid, had demised *had demised* unto the said Richard one other parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold the said premises, to the said Richard and his assigns, with the appurtenances thereunto belonging, from the day and year last aforesaid, for and during and unto the full end and term of twenty years from thence next ensuing, and fully to be complete and ended; and also, that the said Sarah Jane Stinger, whilst she was single, but now Sarah Jane Brown, wife of the said James Brown, on the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and thirty, at the county aforesaid, had demised to the said Richard one other parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold the said premises, to the said

Richard and his assigns, with the appurtenances thereunto belonging, from the day and year last aforesaid, for and during and unto the full end and term of twenty years from thence next ensuing, and fully to be complete and ended; and also, that the said Peter Force, on the twenty-second day of May, in the year of our Lord one thousand eight hundred and twenty-five, at the county aforesaid, had demised to the said Richard one other parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances thereunto belonging, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold the said premises and appurtenances, to him, the said Richard and his assigns, from the day and year last aforesaid, for and during and unto the full end and term of twenty years from thence next ensuing, and fully to be complete and ended; and also, that the said James Brown and Sarah Jane Brown, his wife, on the *eighth day of March, in the year of our Lord one thousand eight hundred and thirty-six*, at the county aforesaid, did demise to the said Richard one other parcel of ground, known as and called the east half of lot numbered two, (2) in square numbered three hundred and forty-eight, (348) with the appurtenances, lying and situate on D street, between 10th and 11th streets, in the City of Washington, in the county aforesaid, according to the plan of said City, containing (2,498) two thousand four hundred and ninety-eight square feet, more or less, to have and to hold the said premises and appurtenances, to the said Richard and his assigns, from the day and year last aforesaid, for and during and unto the full end and term of twenty years from thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said Richard entered into all and singular the premises aforesaid, with the appurtenances thereunto belonging, and was thereof possessed, and the said Richard being so thereof possessed, the said John Doe afterwards, to wit: on the twenty-fourth day of November, in the *year of our Lord one thousand eight hundred and thirty-four*, with force and arms, that is to say, with swords, staves, and knives, at the county aforesaid, entered into the said several five above first mentioned premises, with the appurtenances; and also, afterwards, to wit: on the tenth day of March, in the year of our Lord one thousand eight hundred and thirty six, he, the said John, also, with force and arms, that is to say, with like swords, staves, and knives, at the county aforesaid, also entered into the said last mentioned and sixth premises, with the appurtenances, all and singular which premises and appurtenances as aforesaid the said Benjamin M. Belt, John Knoblock, deceased, in his life time as aforesaid, the said Frederick Stinger, Sarah Jane Stinger as aforesaid, Peter Force and James Brown, and Sarah Jane Brown, his wife, as aforesaid, demised to the said Richard in manner aforesaid, for the terms aforesaid, which are not yet expired, and him, the said Richard, from the premises aforesaid ejected, and other wrongs and injuries to the

said Richard then and there did, to the great damage of him, the said Richard, and against the peace, and government, and dignity of the United States, and so forth, whereby the said Richard saith he is worse, and is prejudiced, and hath damage to the value of two thousand dollars, and therefore he brings suit, &c.

BRENT & BRENT,
Plaintiff's Attorney.

NOTICE TO TENANT IN POSSESSION.

SIR: I am informed that you are in possession of or claim title to the premises in this declaration mentioned, or to some part thereof, and I being sued in this action as casual ejector, and having no claim or title to the same premises, do advise you to appear in the circuit court of the District of Columbia for Washington county, on the fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-six, by some attorney of said court, and then and there, by rule of said court, to cause yourself to be made defendant in my stead, otherwise I shall suffer judgment to be entered against me, and you will be turned out of possession.

I am, &c. JOHN DOE.

To CLEMENT WOODWARD,
Tenant in possession of the premises,
or some part thereof.

A copy of which said declaration and notice was made and sent to the Marshal of the District of Columbia, thereon endorsed, "to be served on the defendant, the tenant in possession, or set upon the premises at least days before the return thereof.

At which mentioned fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-six, being the day of the return of the service of the aforegoing declaration in ejectment, comes into the said circuit court here the said Richard Roe, lessee of the said James Brown and Sarah Jane Brown, his wife, by his attorney aforesaid, and the Marshal, to whom the said declaration in ejectment and notice, as aforesaid, was, in form aforesaid, made and sent, certifies his service thereof to the court here, in form following, to wit:

MARSHAL'S RETURN.

"I hereby certify that I did, on the eighteenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, serve Clement Woodward, tenant in possession of the premises mentioned in the declaration hereunto annexed, or some part thereof, with a true copy of the declaration and notice thereunder written and hereto annexed." Whereupon, the said Richard Roe, lessee of the said James Brown and Sarah Jane Brown, his wife, by his attorney aforesaid, prays that the defendant, the tenant in possession of the premises aforesaid, or those under whom he claims, may appear and answer to the declaration aforesaid.

DEFENDANT'S APPEARANCE, &c.

Whereupon, Clement Woodward, the tenant in possession, by Richard S. Coxe, Esquire, his attorney, appears in court here; and it is ruled by the court, with the consent of the said Richard Roe, lessee as aforesaid, by his attorney aforesaid, and the said Clement Woodward, (who claims the title in question, by his attorney aforesaid,) that the said Clement be admitted defendant, in the place of John Doe, the casual ejector; and at the trial thereon to be had the said Clement shall appear in proper person, or by attorney, and confess lease entry, and actual ouster and expulsion, of so much of the lands in the declaration of the said Richard Roe, lessee as aforesaid, as is in the possession of the said Clement or her tenant, or of any other person claiming by or under his title, or in default thereof, that judgment be entered against the now defendant, John Doe, the casual ejector, but that prosecution be staid against him until he makes default in any of the premises; and it is further ruled by the court here, with the consent of the counsel, that if, by reason of such default, the said Richard Roe, lessee as aforesaid, shall become nonsuit at the trial, the said Clement shall take no advantage thereof, but shall pay to the said Richard Roe, lessee as aforesaid, his costs, &c. and it is further ruled by the court here, that if, upon the trial of the said issue, a verdict shall be given for the said Clement, or if the said Richard Roe, lessee as aforesaid, shall not prosecute his declaration upon other cause, that, for the not confessing lease entry and ouster as aforesaid, then the said James and wife, lessors of the said Richard Roe, shall pay costs, &c. and thereupon the said Clement, by his said attorney, defends the force and injury, when, &c. and prays leave of the court here to imparle until the fourth Monday in November next, and he has it, and the same day is given to the said James and wife, in like manner, and so forth.

IMPARLANCE TO NOV. 1836.

At which said fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-six, to which said day the said Clement had leave to imparle, &c. comes into court here, as well the said Richard Roe, lessee as aforesaid, by his attorney, as the said Clement Woodward and Mary Jane, his wife, by their attorney aforesaid.

DEFENCE ON TITLE NOT GUILTY, AND ISSUE.

And the said Clement, by his attorney aforesaid, as before, defends the force and jury, when, and so forth, and takes his defence of and upon the premises in question upon his title thereto, and says that he is not guilty of the trespass and ejectment in the said declaration mentioned, in manner and form as the said Richard Roe, lessee as aforesaid, above complaining; of this he puts himself upon the country, &c. and the said Richard Roe, lessee as aforesaid, in like manner, and so forth.

VENIRE FACIAS.

Therefore, let a jury thereon appear before the court here on the fourth Monday of March next, by whom, &c. and who neither, &c. to recognise &c. because as well, &c. and the same day is given to the said parties, then and there, &c.

And now, to wit, the said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-seven, comes into court here, as well the said Richard Roe, lessee as aforesaid, by his attorney aforesaid, as the said Clement Woodward, by his attorney aforesaid. Whereupon, for trying the issue aforesaid, it is ordered by the court here, that twelve persons from the pannel of petit jurors, returned to the court here by the marshal of the district aforesaid, be drawn by ballot, according to law, and twelve persons being so drawn and called, come, to wit:

JURY—SWORN.

1 Zach. Walker,
2 Charles Butler,
3 William N. Waters,
4 Joseph S. Clarke,
5 William Easby,
6 Alexander Borland,
7 John G. Robinson,
8 Richard Brooks,
9 Abner H. Young,
10 William H. Edes,
11 James Kennedy,
12 Walter Clarke.

VERDICT OF JURY.

Who, being empannelled and sworn to say the truth in the premises, upon their oath do say, that the said Clement Woodward is guilty of the trespass in ejectment as aforesaid, in manner and form as the said Richard Roe, lessee as aforesaid, hath complained, and they assess to him one cent damages:

JUDGMENT OF COURT.

Thereupon, it is considered by the court here, that the said Richard Roe, lessee as aforesaid, reoover against the said Clement Woodward, his term aforesaid, yet to come and unexpired, of, in, and to one undivided moiety of the lot, messuage, and tenement in the declaration mentioned, and that the said Richard Roe, lessee as aforesaid, have thereof his possession against the said Clement Woodward, and so forth: and it is also considered by the court, that the said Richard Roe, lessee as aforesaid, recover against the said Clement Woodward, as well the sum of one cent, the damages assessed by the Jury aforesaid, as the sum of fifty-four dollars and fifteen cents, by the court here, unto him, on his assent adjudged, for his costs and charges, by him, about his suit in this behalf, laid out and expended, and the said defendant, in mercy, &c.

Memorandum.—Before the jurors aforesaid withdrew from the bar of the court here, the said Clement, by his attorney aforesaid, filed in court here, the following bills of exceptions, to wit:

DEFENDANT'S FIRST BILL OF EXCEPTIONS.—The Defendant's 1st Bill of Exceptions.

Lessee of JAMES BROWN and SARAH JANE BROWN, his wife, *vs.* CLEMENT WOODWARD. } Memorandum.

On the trial of this cause, the plaintiff, to support the issue on his part, offered evidence to prove that, prior to, and until the 22d of November, 1834, the defendant was tenant to, and held the premises in the declaration mentioned, under the said Sarah Jane, then sole, and named Sarah Jane Stinger, and who was the daughter of one John Sessford, who, until the intermarriage of his said daughter with the other lessor of the plaintiff, James Brown, which took place in the autumn of the year 1835, acted as the agent of the said Sarah Jane, by her authority and consent, and managed her affairs for her, and sometimes received the rent from the said defendant, who held the premises from month to month, and who continued to pay his rent punctually, until the said 22d day of November, 1834, after which he refused any longer to pay the rent to the said Sarah Jane, or to any person claiming under her, but declared that he held the same under, and as tenant to, the Bank of the United States.

That at the time the said premises were rented to the defendant by the said Sarah Jane, as aforesaid, and for a long time before, she was seized and possessed of the same, claiming to hold the same in fee simple.

That immediately after the defendant's refusal to pay his rent, as aforesaid, to the said Sarah Jane, the said John Sessford, acting for her and in her behalf, and with her consent, applied to William L. Brent, Esquire, counsel learned in the law, for advice, and employed him to do, in her behalf, every thing necessary to enable her to regain the possession of the said premises; whereupon, the said William L. Brent, on or about the 24th of November, 1834, gave verbal notice to the defendant to quit the premises at the expiration of his next month's holding. That the defendant then consented to receive the said verbal notice as legally sufficient, and then waived all objections to the regularity thereof, claiming only to hold the premises as tenant under the Bank of the United States.

That the said William L. Brent, afterwards, on the 17th or 18th of January, 1836, gave the defendant another verbal notice to quit, at the expiration of the then next ensuing month, having been expressly authorized so to do by the lessors of the plaintiff; to the sufficiency and legality of which notice, the defendant then also, in like manner, waived all objections, and dispensed with a written notice,

claiming, as before, to hold the premises only as tenant to the said bank;

And upon this evidence the plaintiff rested his right to recover in this action.

Whereupon, the defendant prayed the court to instruct the jury that the plaintiff was not entitled to recover, in this action, upon the said evidence, if believed by the jury to be true;

Which instruction the court refused to give; to which refusal the defendant, by his counsel, excepted, and this his bill of exceptions is signed, sealed, and ordered to be enroled this 16th of June, 1837.

WM. CRANCH. [SEAL.]
JAMES S. MORSELL. [SEAL.]

DEFENDANT'S SECOND BILL OF EXCEPTIONS.—Defendant's 2d Bill of Exceptions.

Lessee of JAMES BROWN and SARAH JANE, his wife,
vs.
CLEMENT WOODWARD.

On the further trial of this cause, and after the plaintiff had rested his case, as stated in the preceding bill of exceptions, the defendant, in order to sustain the issue on his side, produced a competent witness, who testified that, on the 22d day of November, 1834, he, as the deputy marshal of this district, went to the premises mentioned in the said declaration, then in the occupancy of the said defendant, with a writ of habere facias possessionem, against the said defendant, in company with W. W. Corcoran, the agent of the Bank of the United States, named as the lessor of the plaintiff in said writ, and which was supposed by the said parties to comprehend, but did not in fact comprehend, the premises mentioned in the declaration; that it was then and there represented to the *to the* defendant by the said agent and the marshal, that the latter had such a writ for said premises, and the said defendant, supposing it to be such a writ as represented, voluntarily and peaceably surrendered the possession of said premises to the said agent of the said bank, who endorsed upon the said writ an acknowledgment of the delivery of the possession of the said lot and premises therein described to him as such agent; and afterwards, on the same day, the said defendant entered into an agreement to hold the said premises, in the declaration mentioned, as the tenant of the said Bank of the United States; and the defendant then offered further to prove, that he, the said defendant, from the 22d November, 1834, held, and still holds, possession of the said premises, under the said agreement last named, and that the said Bank of the United States then had, and now has, a good and lawful legal title to the said premises: to the admission of the said testimony, so offered to be given as aforesaid, the plaintiff, by his counsel, objected, and the court sustained the objection, and refused to permit such testimony to be given: to which refusal the defendant,